IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3576 OF 2006

AND

WRIT PETITION NO. 6469 OF 2006

WRIT PETITION NO. 3576 OF 2006

Ankush Vasudeo Ghadigaonkar. .. Petitioner.

vs.

Saraswati Lahu Ghadigaonkar . .. Respondent.

Mr. S.M. Railkar for petitioner.

WRIT PETITION NO. 6469 OF 2006

Ankush Vasudeo Ghadigaonkar. .. Petitioner.

vs.

Saraswati Lahu Ghadigaonkar
& Ors. . .. Respondents.

Mr. S.M. Railkar for petitioner.

CORAM : A.P. DESHPANDE, J.

DATE : 7th December, 2006.

P.C.

. The respondent no. 1 herein instituteda suit for injunction simplicitor against the present petitioner and another defendants. The trial court relying on the revenue records held that the plaintiff is in possession and hence granted temporary injunction restraining the petitioner/ defendant from interfering with his possession. The said order passed by the trial court has been confirmed in appeal by dismissal of a miscellaneous civil appeal by the District Judge which is subject matter of Writ Petition No. 3576 of 2006.

2. Whereas in Writ Petition No. 6469 of 2006 the impugned order is one passed by the trial court rejecting an application moved by the petitioner under Exhibit - 37 wherein a prayer is made for framing an issue of tenancy and its consequential reference to the tenancy authorities under the Bombay Tenancy Act in view of Section 85A of the Tenancy Act. The trial court has held that in a suit for injunction simplicitor issue of tenancy does not arise and hence no question of framing and referring the said issue.

3. Perused the orders. No interference is called for. Writ Petition No. 3576 of 2006 stands dismissed.

4. At this stage, however, all the questions raised in Writ Petition No. 6469 of 2006 are left open to be agitated by the petitioner by raising the same in the regular civil appeal if and in case the suit filed by the respondent is decreed by the trial court and the petitioner is made to file a regular appeal. Writ Petition No. 6469 of 2006 disposed of accordingly.

(A.P. Deshpande, J.)